

**Municipalities**  
**PUC Docket No. DM 05-172**  
**Responses to Staff's Fourth Set of Data Requests**

The term licensing in this context refers to the licensing of poles in the public right-of-way by municipal or state authorities.

Revised Request 4-4 Asked of Electric, Verizon, Municipalities and NHDOT:

Please describe the process by which a municipality or the State of New Hampshire Department of Transportation (NHDOT) obtains the right to attach to utility poles and/or occupy conduit space in order to build an intra-government network for government use only. For example, is a Pole Attachment or Conduit Occupancy Agreement typically executed with the owner or joint owners of the poles and conduit? Are such agreements ever executed by municipalities or the NHDOT? If so, when?

Does the municipality or NHDOT typically apply for a license and pay related fees, such as engineering survey fees, make-ready costs, and prevailing pole attachment and/or conduit occupancy fees? Would a municipality or NHDOT ever apply for a license or pay such fees? Please identify any such instances.

Please explain your answers fully and provide the basis for the process typically undertaken, including, where appropriate, a citation to the rule, tariff, ordinance or statute that supports your assertion.

**SUMMARY**

Municipalities have obtained the right to attach to utility poles and/or to occupy conduit space for intra-government networks for government-only use in a variety of ways. In some communities, a written agreement exists dating back 100 years or more granting the municipality the right to use dedicated space on the poles and/or in conduits for municipal purposes, such as low voltage signaling for fire alarms. The City of Keene has such a written agreement. In other communities, written agreements probably existed but have been lost. In those communities, the historical practice has often been to permit municipal use of space on the poles and/or in conduits for municipal purposes, which was sometimes a condition of the pole license approval. The Towns of Exeter, Newmarket and Seabrook have historically used dedicated space for fire alarm cables. In Newmarket, the Town deployed an intra-governmental network utilizing the existing space for fire alarm wire by overlashing fiber optic cable to upgrade the existing alarm wires. The City of Portsmouth also uses dedicated space on the poles and contracted with Bayring Communications to build a city wide network for municipal use. In that case, Bayring executed any licenses required of pole licenses, paid all fees, and addressed all make ready costs.

Other communities, particularly smaller, more rural communities in which the population is more diffuse, have not historically used municipal space on the poles, but those communities may need to review their intra-municipal communications needs as population density increases, lending additional importance to the need to develop a state-wide approach to municipal use of space on poles and any pole attachments agreements needed.

In an effort to systematize the dedication of municipal space and to provide more uniformity in the practices among the various pole owners and municipalities regarding attachment agreements to address safety and code issues, the electric companies have been meeting at the Local Government Center with representatives of several municipalities and the LGC for the last year or so to create a uniform petition for pole licenses addressed to the municipalities and uniform licenses that includes both the requirement for the payment of property taxes pursuant to RSA 72:23,I(b), and the reservation of 12

inches of space on the pole for municipal purposes. The working group has also been developing a standard attachment agreement for municipal equipment on poles.

The statutory context for municipal use of space on poles is primarily RSA Chapter 231.

Individual municipal responses are provided below.

## **SPECIFIC RESPONSES**

### **EXETER**

Historically the Town of Exeter has been provided a dedicated space on existing utility poles for municipal use primarily for the purpose of mounting Fire Alarm cables. Approximately 85% of the utility poles in Town currently have fire alarm cables. The Town also uses this space on approximately 5-10 utility poles for an intra-municipal network. The Town is unaware of any written or formal agreements with the Utility Companies for this purpose.

The Town of Exeter does not apply for permission to use this space or pay any applicable fees.

The Town of Exeter is not aware of any license or fee for the right to utilize this space and therefore has not obtained such.

### **HANOVER**

The Town of Hanover has not sought to attach to utility poles in order to build an intra-governmental telecommunications network. However, the Town of Hanover owns and maintains several miles of c-wire, 25 pair and underground conduit as part of its Fire Alarm Network. This network has been in place on the poles for decades in some places, and we can find no historical records indicating that the Town was required to execute a Pole Attachment or Conduit Occupancy Agreement, apply for a license or pay any fees related to this attachment. To this day, Hanover maintains that system without consultation with either Verizon or National Grid.

### **KEENE**

In the case of Municipal Fire Alarm circuitry, there exists a written agreement which dates back to the era of New England Telephone (NET), stating that NET will provide aerial and duct space, free of charge, to a municipality for the purposes of traditional low voltage signaling. This refers to 100 milliamp municipal fire alarm systems which can also utilize point to point field telephones. The City maintains a Municipal Fire Alarm system in this space. The City also has a fiber optic network for intra-government purposes.

Verizon requires that the City of Keene maintain an aerial license agreement with Verizon for its intra-government fiber optic network. Such an agreement was executed in April of 1996 and is automatically renewed annually per the terms of the agreement. City representatives have made an effort to negotiate a revision of this agreement with Verizon, but Verizon representatives have been unresponsive to renegotiation efforts. The agreement requires that an application be submitted to Verizon for access to the poles, and that site-survey and make-ready costs be paid as well as annual attachment fees (charged by both PSNH and Verizon). The site-survey and make-ready fees have been so costly as to prevent further deployment of the fiber optic network to a City fire station. Furthermore, the existing

fiber optic network supports critical government functions including emergency services, thus any interruption or elimination of cabling on the poles would be detrimental to City services.

The City has paid recent pole attachment fees to Verizon for its fiber optic network under protest. City representatives do not believe it is necessary to sign an aerial license agreement or pay fees in order to locate City telecommunications facilities (used for government purposes) on Verizon poles. This is consistent with pole licenses historically filed with the City as well as with inter-company operating agreements held by PSNH and Verizon.

## **NEWMARKET**

The Town of Newmarket has utilized space reserved for municipal purposes for a fire alarm system. The Town recently deployed an intra-governmental network utilizing existing space occupied by the fire alarm system wires for all such attachments. These network cables were deployed in conjunction with the necessity to upgrade the existing alarm wires, due to advanced decomposition on the insulation and sagging wires. The project resulted in newer alarm wires overlashed onto stronger support cabling deployed for both network cables and the alarm wires.

## **PORTSMOUTH**

The City of Portsmouth uses 12" of dedicated space on poles and sufficient space in conduit for Fire Alarm Cables. The City paid Bayring Communications to build a city-wide network. Bayring, as part of their contract with the City, executed licenses, paid all fees and make-ready costs.

## **SALEM**

The Town has a fiber optic line that runs between Town Hall and the Police Department, and the line has been in place for over five years. The Town pays an annual fee to Granite State Electric/National Grid and to Verizon for the pole attachments.

## **SEABROOK**

The Seabrook Fire Department and Emergency Management Office are unaware of any requirements for permits for locating municipal services on poles. At the present time, the Town has a fiber optic network, municipal fire alarm and sewer monitoring located on poles.

## **RESPONSES PROVIDED BY**

### **Exeter**

Keith Noyes, Public Works Director  
Brian Comeau, Fire Chief

### **Hanover**

Julia Griffin, Town Manager

### **Keene**

John M. Beckta, Captain/Fire Alarm Bureau]  
Rebecca Landry, Information Services Director]

**Newmarket**

Clay Mitchell, Town Planner

**Portsmouth**

Frank Ott, Fire Alarm Superintendent

**Salem**

Cynthia Crescenzi, IT Director

**Seabrook**

Jeff Brown, Seabrook Fire Department

Scott Bartlett, Town Assessor

**Municipalities**  
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The term licensing in this context refers to the licensing of poles in the public right-of-way by municipal or state authorities.

Revised Request 4-5 Asked of Electrics, Verizon, Municipalities and NHDOT:

Please describe the process by which a municipality or the State of New Hampshire Department of Transportation obtains the right to attach to utility poles and/or occupy conduit space in order to offer competitive services for use by the general public. For example, is a Pole Attachment or Conduit Occupancy Agreement typically executed with the owner or joint owners of the poles and conduit? Are such agreements ever executed by municipalities or the NHDOT? If so, when?

Does the municipality or NHDOT typically apply for a license and pay related fees, such as engineering survey fees, make-ready costs, and prevailing pole attachment and/or conduit occupancy fees? Would a municipality or NHDOT ever apply for a license or pay such fees? Please identify any such instances.

Please explain your answers fully and provide the basis for the process typically undertaken, including, where appropriate, a citation to the rule, tariff, ordinance or statute that supports your assertion.

**SUMMARY**

The nine intervenor municipalities are not currently involved with providing competitive telecommunications services for use by the general public, and therefore have limited information.

**SPECIFIC RESPONSES**

**EXETER**

The Town of Exeter is unaware of any process to obtain the right to attach cables within the designated space in order to offer competitive services for use by the general public and therefore has not used such process.

**HANOVER**

The Town of Hanover has not sought to complete such an attachment so, as such, we have not formulated a position on this matter. However, it is our opinion given the fact that the utilities are allowed to reside in the municipal right-of-way at no charge in terms of a licensing fee and that many municipal licenses from an earlier era reserved twelve inches on the pole for municipal use (which enables the placement of fire alarm cable), municipalities should be allowed to utilize that space at no charge for any appropriate municipal purpose, based on public good. Insuring universal citizen access to high speed internet service is, we believe, a municipal purpose.

**KEENE**

The City of Keene maintains no telecommunication facilities on utility poles that may be used to offer competitive services for use by the general public. The current fiber optic network is used only for

government purposes. It is understood that Verizon would maintain the same contract requirements of the City that are expected of for-profit organizations who seek to attach telecommunications facilities to utility poles for the provision of *competitive* services.

## **NEWMARKET**

The Town of Newmarket has not engaged in such a practice and cannot answer this question.

## **PORTSMOUTH**

[The City of Portsmouth has] never attempted to use pole and conduit space for the above purpose.

## **RAYMOND**

[The Town of Raymond is] not aware of what process is to be followed, as [the Town has] never applied for any such approval.

## **SALEM**

The Town of Salem has not made attachments to poles to provide competitive services.

## **SEABROOK**

The Town of Seabrook does not offer services to the general public that are competitive with private industry.

## **STRATHAM**

Not applicable. Stratham has never done this before, so we have no experience.

## **RESPONSES PROVIDED BY**

### **Exeter**

Keith Noyes, Public Works Director  
Brian Comeau, Fire Chief

### **Hanover**

Julia Griffin, Town Manager

### **Keene**

Rebecca Landry, Information Management Services Director

### **Newmarket**

Clay Mitchell, Town Planner

### **Portsmouth**

Frank Ott, Fire Alarm Superintendent

**Raymond**

Dennis G. McCarthy, Public Works Director

**Salem**

Robert E. Puff, Jr., Director of Engineering

**Seabrook**

Jeff Brown, Fire Department

Scott Bartlett, Town Assessor

**Stratham**

Paul R. Deschaine, Town Administrator